



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 6290-99  
5 November 1999

MA [REDACTED] JSMCR  
[REDACTED]  
[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested modification of your fitness report for 1 January to 30 June 1990 by changing the mark in "judgment" from "EX" (excellent) to "OS" (outstanding), and removing the comment: "Despite these accomplishments, [your] sense of urgency at times has been misdirected, a shortfall which I am confident will be rectified."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 30 September 1999, a copy of which is attached. They also considered your rebuttal letter dated 27 October 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

The Board noted that paragraph 5001.2.f.(1) of Marine Corps Order P1610.7C stated "Comments identifying minor limitations, shortcomings, occasional lapses, or weakness in an otherwise overall positive section C, 'does not' make the report adverse." While they found the comment at issue was minor enough that it did not render your contested fitness report adverse, they disagreed with the PERB to the extent that they found the comment was significant enough to warrant inclusion in your report. They did not consider this comment to violate the language in paragraph 4007.4a of the fitness report order that narrative "should be

written with understanding that allows subordinates to experience challenges and make mistakes." Finally, they did not find the comment at issue unduly vague or ambiguous. Since they found no basis to remove the comment, they had no grounds to raise your mark in "judgment."

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

6290-99

IN REPLY REFER TO:

1610

MMER/PERB

SEP 30 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR  
[REDACTED] USMCR

Ref: (a) Major [REDACTED] DD Form 149 of 17 Jun 99  
(b) MCO P1610.7C w/Ch 1-5

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 27 September 1999 to consider Major [REDACTED] petition contained in reference (a). A change to the mark of "excellent" in Item 14g (judgment) and the elimination of a sentence from Section C was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that the challenged comment is adverse, yet the report was not processed in that manner. He also believes that incorporating such a comment violates the provisions of reference (b) concerning the inclusion of minor and insignificant imperfections. Finally, the petitioner believes that if the Section C comment directly referring to his performance is not in keeping with reference (b), then the mark of "excellent" in Item 14g is erroneous and should be changed to "outstanding."

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. Viewed in its entirety, this is an outstanding evaluation replete with laudatory comments regarding the petitioner's performance and abilities as a first lieutenant. The petitioner mistakenly argues that verbiage in Section C renders the report adverse. The challenged comments may reflect "insignificant imperfections" which reporting officials are discouraged from documenting; however, these comments reflect circumstances common to the development and growth of junior officers. In this particular case, the Board concludes that the inclusion of the challenged comments constitute neither an error nor an injustice.

b. The report contains no specific references to deficient performance; in fact, it heaps praise on the petitioner. While

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his recollections and subjective interpretation of this appraisal are adverse, this opinion (vice the parameters of reference (b)) is not sufficient to warrant any corrective action. In essence, the report is a valid appraisal within the boundaries and guidelines established by reference (b).

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain as configured.

5. The case is forwarded for final action.

[REDACTED]  
Colonel, U.S. Marine Corps  
Deputy Director  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps